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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,016	10/17/2005	Antoine Bourelly	0514-1201	7570
466	7590	03/27/2007		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER ROSENBERGER, RICHARD A	
			ART UNIT	PAPER NUMBER
			2877	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/524,016	BOURELY, ANTOINE	
	Examiner	Art Unit	
	Richard A. Rosenberger	2877	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/09/2005</u>  | 6) <input type="checkbox"/> Other: ____                           |

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1. Claims 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In independent claim 5, the phrase "preferably with a wide spectrum", does not particularly point out and distinctly claim the subject matter; it is unclear whether the wide spectrum is, or is intended to be, definitely claimed.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5- 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roe et al (US 5,966,217).

Roe et al shows, in figure 4, a system for automatic analysis of transparent objects (100) traveling on a support (46). There is a illumination means (14) and at least one detection means (31, 33), both placed above the flow of the objects being analyzed.

Ore et al does not discuss the color of the support (46). The discussion of the operation of the device is in terms of the absorption on light by the object; see column 3, lines 17-18, and lines 64-66; column 4, lines 1-12 and 35-37. It would have been obvious given this teaching as to the operation of the device to use a white (instant claims 7) conveyor, reflecting a large percentage, such as at least 70% (as in instant claims 6), so

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that the light that passes through the object will be reflected back through the object and thus increasing the amount of light available for the detector. Thus would make the operation of the system of figure 4 of the reference much more analogous to the operation of the other embodiments, and the reference does not present the embodiment of figure 4 to be substantially different than that of the other embodiments.

As shown in figures 2 and 4, the system of the Roe reference has a multi-band detector system, which provides useful information (as in instant claim 9) which allows discrimination based upon whether all of the bands are substantially equal (column 3, lines 46-47; column 4, line 46); clearly if all of the bands are substantially equal, then they are all close to the average value as in instant claim 8).

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roe et al (US 5,966,217) as applied to claim 5 above, and further in view of Eason (US 5,335,791).

It is known to clear a conveying means in similar apparatus; see cleaner 74 of Eason. It would have been obvious to use and clean such a conveyor of Roe et al because the detectors of Roe et al "see" the conveyor and dirt or the like on the conveyor would thus cause the measurements to become inaccurate.

5. It is noted that several of the documents submitted on the information disclosure document filed on 9 February 2005 teach the known use of white conveyors; see Cambell (US 5,884,775), column 5, line 9-10; Fraenkel (US 5,241,171), column 1, line 39, and Little et al (US 4,738,175), column 4, line 15, and Warner (US 2,929,500), column 6, lines 22-23.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard A Rosenberger whose telephone number is (571) 272-2428. The examiner can normally be reached on Monday through Friday during the hours of 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R. A. Rosenberger  
19 February 2007



Richard A. Rosenberger  
Primary Examiner